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SUPREME COURT OF THE UNITED STATES

ROBERT LEE SHELL v. MISSISSIPPI

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME
COURT OF MISSISSIPPI

No. 89-7279. Decided October 29, 1990

PER CURIAM.

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. To the extent that the Mississippi Supreme Court relied on the "especially heinous, atrocious, or cruel" aggravating factor in affirming petitioner's death sentence, its decision is reversed. See *Maynard v. Cartwright*, 486 U. S. 356 (1988). Although the trial court in this case used a limiting instruction to define the "especially heinous, atrocious, or cruel" factor, that instruction is not constitutionally sufficient. See *Godfrey v. Georgia*, 446 U. S. 420 (1980); *Cartwright v. Maynard*, 822 F. 2d 1477, 1489-1491 (CA10 1987), *aff'd*, 486 U. S. 356 (1988). The case is remanded to the Mississippi Supreme Court for further consideration in light of *Clemons v. Mississippi*, 494 U. S. — (1990).

It is so ordered.

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